

REMARKS

This Amendment is responsive to the Office Action mailed May 8, 2006. Claims 1, 3, 15, and 22 have been amended to read as set forth above. Claim 10 has been canceled. Prompt reconsideration is respectfully requested in view of the above amendments and the following remarks.

Double Patenting

Claims 1, 2, and 4-24 stand provisionally rejected on the grounds of nonstatutory double patenting over claims 1-23 of U.S. Patent Application Number 10/408,055. In view of the amendments above, it is respectfully submitted that this provisional rejection is no longer appropriate. Upon indication of allowability of at least one claim a suitable terminal disclaimer will be filed, however, if this provisional rejection should be maintained.

Rejections under 35 USC 103(a)

Claims 1, 3, 5-15 and 17-25 stand rejected as obvious over Haltiner in view of Frank et al. Claims 2 and 16 stand rejected as being obvious over Haltiner in view of Frank et al. and further in view of Nishio et al. Claim 4 stands rejected as being obvious over Haltiner in view of Frank et al. and further in view of Nishio et al. and further in view of Yoshimura et al. However, the independent claims have been amended to include the limitation the fuel cell generator is mounted on a trailer for transport and adapted to be disassociated from transportation vehicle to supply power of at least 50 kW for local use.

Haltiner and Frank et al. do not render the claims obvious, as presently claimed, for several reasons. The fuel cell generator in Haltiner is directed towards a fuel cell designed to power a motor vehicle. The fuel cell in Haltiner cannot be taken to a location, disassociated from the motor vehicle and utilized to provide power for use at the location as in the pending claims. It is simply a fuel cell to power a motor vehicle.

Frank et al. also does not teach a fuel cell generator that provides a supply power of at least 50 kW for local use as is presently claimed. Frank et al. only teaches a small scale generator providing, in its preferred embodiment, about 1 kilowatt of electricity. (See paragraph [0046] of Frank et al.) In fact, Frank et al. teaches away from utilization of a fuel cell generator providing at least 50 kW of electricity teaching that there is a need for a small scale generator. (See paragraph [0011])

Hence, in the absence of any teaching or suggestion as presently claimed, in the Haltliner or Frank reference, obviousness of the present claims is negated. Accordingly, the absence of any disclosure or teaching in the references of a fuel cell generator that is mounted on a trailer for transport and adapted to be disassociated from transportation vehicle to supply power of at least 50 kW for local use means there can be no obviousness rejection. Thus the Applicants respectfully request that the Examiner withdraw the 35 U.S.C. 103 rejections to claims 1-9 and 11-25.


Conclusion

Applicants have complied with all requirements made in the above referenced communication. Applicants submit that the present application is in condition for allowance, and therefore, respectfully request that a timely Notice of Allowance be issued in this case. Should matters remain, which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone the Applicants' undersigned agent.

The Director is authorized to charge any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to Deposit Account Number **50-2638**. Please ensure that Attorney Docket Number 70278.020100 is referred to when charging any payments or credits for this case.

Respectfully submitted,

Date: June 25, 2007


R. Joseph Foster
Reg. No. 56,953

Customer Number 33717
GREENBERG TRAURIG, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404
Phone: (310) 586-6565
Fax: (310) 586-7800
E-mail: fosterj@gtlaw.com
LA126838026